

U.S. Department of Justice
Immigration and Naturalization Service

TESTIMONY
OF
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DEPARTMENT OF JUSTICE
BEFORE THE
SENATE SELECT COMMITTEE ON INTELLIGENCE
HEARING ON
THE ZONA ROSA MASSACRE
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Chairman Shelby and members of the Committee, I am glad to provide information regarding the procedures related to the parole of aliens into the United States and, specifically, the circumstances of the 1990 parole of Pedro Antonio Andrade Martinez (hereinafter Andrade) into the United States.

History of the Andrade Parole

On March 30, 1990, the Department of State (DOS) Visa Office presented an urgent request to the Immigration and Naturalization Service (INS) Office of International Affairs (OIA) for the parole of Mr. Andrade. The request stated that Mr. Andrade had provided valuable information during the investigation of the Zona Rosa murders and as a result his life was in danger. The Visa Office stated that, although Mr. Andrade was a member of the Farabundo Marti National Liberation Front (commonly known by its initials in Spanish, FMLN), he was not linked to the Zona Rosa murders. Based on the information provided by the Visa Office and its representations concerning the urgency of the matter, the INS authorized parole for Mr. Andrade.

Several months after the parole of Mr. Andrade was approved and shortly after his arrival in the United States, an Assistant U.S. Attorney for the District of Columbia, Brian Murtagh, questioned INS staff about the parole authorization. This inquiry was made because, as INS later learned, the U.S. Attorney for the District of Columbia had been investigating the Zona Rosa murders in conjunction with the FBI and had previously objected to the parole of Mr. Andrade. In the course of his inquiry, Mr. Murtagh asked INS if, before the agency had approved the parole of Mr. Andrade, it knew that the U.S. Attorney was strongly opposed to Mr. Andrade receiving parole. Mr. Murtagh also asked if INS had ever been provided any information concerning the investigation of the Zona Rosa killings beyond the background provided in the parole request from the Visa Office. The answer to both questions was "No". INS had not

been privy to any prior interagency discussions concerning Mr. Andrade.

Had the INS been aware of the U.S. Attorney's objections to Mr. Andrade's parole, it would have denied the parole request. Moreover, the report of the Inspector General of the Department of Justice found that,

the INS did not act improperly when it processed Andrade's parole in conformity with its normal procedures. INS received no information about any controversy or objections to the parole when it reviewed the parole request. INS relied on DOS, the government agency proposing the parole, to have properly coordinated with any other interested agencies. INS did not normally, and should not be expected to, conduct an independent investigation into the facts of each parole request, the identity of interested agencies, or the positions of all interested agencies on each of its hundreds of parole requests. It was not unreasonable for the INS to rely on the requesting agency to coordinate the parole request in advance and to provide notice to INS that the request was opposed by other agencies. [pp. 100 & 103, Report of Department of Justice Office of Inspector General]

Previous Practice

The great majority of requests for significant public interest parole are submitted by law enforcement agencies in order to secure witnesses, informants and defendants for trials in the United States. Requests from the Department of State are rare. Until recently there has been no formal procedure for submitting these requests. Each request has been handled on a case-by-case basis, carefully balancing the need for integrity in the immigration system with the significant law enforcement interests, the urgency considering the potential danger to the individual, confidentiality and security issues as raised by the requesting agency.

New INS Protocols

Following the recommendation of the Inspector General's report, the Deputy Attorney General asked the INS to formalize procedures for processing public interest parole requests in order to ensure coordination with other interested agencies prior to authorization and prevent the circumstances of the Andrade case from reoccurring.

The INS has prepared written protocols for the submission, review, and approval of Significant Public Benefit Parole Requests from both the Department of State and Federal Law Enforcement Agencies. These protocols significantly improve the parole authorization process by standardizing the information submitted with each request, adding several layers of accountability and review within the requesting agency, and providing a mechanism to ensure that all interested federal agencies are given the opportunity to object or concur with the request prior to a decision by the INS.

Under the new protocols, the requesting agency is required to complete a template request form, specifying not only the personal and logistical information necessary to process the proposed parolee's arrival in the United States, but a complete justification for the request.

The justification must describe: 1) the significance of the case; 2) the value of the proposed parolee to the case; 3) the bases of the proposed parolee's information; 4) the requesting agency's knowledge of the proposed parolee's involvement in any criminal proceedings or with other government agencies, and 5) proposed security precautions and logistics associated with the parolee's arrival. The request must be accompanied by printouts of DOS' and principal law enforcement data bases and look out systems.

Upon receiving the completed request, the INS will circulate the information to designated individuals at the principal Federal Law Enforcement Agencies using a standard notice form. Each agency will be required to respond to the notice, acknowledging its concurrence or submitting a formal objection, by a specified time.

With respect to requests by the Department of State, the request must also be

accompanied by an attestation form signed by both the Deputy Chief of Mission and the Deputy Assistant Secretary for Visa Services stating that: 1) the information set forth in the request is accurate and complete; 2) name checks have been completed in the CLASS data base, and as appropriate, foreign government's look out systems; 3) all data base checks have been forwarded to INS; 4) all U.S. governments agencies known by the Department of State to have an interest in the case or the proposed parolee have been identified and informed of the request, and 5) that the request has been approved by the Law Enforcement Committee at the Embassy from which the request originates.

Requests from Law Enforcement Agencies must be submitted over the signature of a designated Senior Headquarters official, and in addition to all the information stated above, the request must identify the Office of the U.S. Attorney handling the case and indicate its concurrence with the request.

INS believes that these new protocols will significantly improve the parole authorization process and ensure that the Andrade situation is not repeated. The INS will meet quarterly with the Department of Justice to review implementation of the new protocols and issues arising therefrom.

This completes my testimony. I would be pleased to answer any questions.